

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7628-A

In Re: Lowell Mountain Wind Project)
Stormwater Permit #6216-INDC)
(Appeal of Energize Vermont, Inc., et al))

Docket No. 7628-B

In Re: Lowell Mountain Wind Project)
Stormwater Permit #INDC.1)
(Appeal of Energize Vermont, Inc. et al))

Docket No. 7628-C

In Re: Lowell Mountain Wind Project)
Stormwater Permit #6216-INDS)
(Appeal of Energize Vermont, Inc., et al))

Docket No. 7628-D

In Re: Lowell Mountain Wind Project)
Water Quality Certification)
(Appeal of Energize Vermont, Inc. et al))

and

Docket No. 7628-E

In Re: Lowell Mountain Wind Project)
Wetland Permit #2008-364)
(Appeal of Energize Vermont, Inc., et al))

Order entered: 10/19/2011

PREHEARING CONFERENCE MEMORANDUM

On September 19, 2011, Energize Vermont, Inc., Don and Shirley Nelson, Jim Blair, Kevin McGrath, Robbin Clark, Nancy Warner, and Jack Brooks (collectively, the "Appellants")

filed with the Vermont Public Service Board ("Board") appeals of five Vermont Agency of Natural Resources ("ANR") decisions related to the Lowell Mountain Wind Project.

The Board convened a prehearing conference on October 14, 2011. The following parties entered appearances: Judith Dillon, Esq., and Donald Einhorn, Esq., for ANR; John Beling, Esq., for the Vermont Department of Public Service ("Department"); C. Daniel Hershenson, Esq., and Nathan H. Stearns, Esq., Hershenson, Carter, Scott & McGee, P.C., for the Appellants; and Peter Zamore, Esq., Sheehey Furlong & Behm, PC, and Donald Rendall, Esq., for Green Mountain Power Corporation ("GMP"). Also present at the prehearing conference was Jared M. Margolis, Esq., for the Towns of Craftsbury and Albany, Vermont, which had previously filed a Motion to Intervene.

At the prehearing conference, the Board proposed that these five proceedings be consolidated pursuant to 10 V.S.A. § 8506(d). No party objected to consolidation. Therefore, these five proceedings shall be fully consolidated.

Most of the prehearing conference was spent addressing the schedule. The Appellants and GMP had each circulated a proposed schedule in advance of the prehearing conference; the two proposed schedules differed substantially in the overall length and in some of the elements in the schedule. The Board encouraged the parties to seek to reach agreement on all or parts of the schedule. The parties are to file by October 21, 2011, an agreed-upon schedule, or if no agreement is reached further comments on the schedule. (Although the Board has not yet ruled on Albany and Craftsbury's intervention, they are to be included in the parties' scheduling discussions and shall be allowed to submit comments on the schedule.) Also, as discussed at the prehearing conference, any proposed schedule should include a site visit.

The Board established October 28, 2011, as the deadline for motions to intervene. Any responses to motions to intervene are due one week after the motion is filed.

Another schedule-related item discussed was the filing of a more specific statement of issues by the Appellants. The Appellants agreed to make such a filing and indicated that they would be able to submit it within one week, although they acknowledged that there may be some disagreement among the parties as to the degree of specificity that the statement should reflect. The Appellants shall file a more specific statement of issues by October 24, 2011.

The Board noted that Craftsbury and Albany's intervention motion does not appear to specifically address the statutory requirements for intervention that apply to these types of

appeals, as set forth at 10 V.S.A. § 8504(n). Craftsbury and Albany may, if they wish, file an amended motion to intervene by the October 28 intervention deadline.¹

There was also some discussion as to whether the Department and ANR needed to file motions to intervene in order to participate as parties. However, no one at the prehearing conference objected to the Department's and ANR's party status. Therefore, the Department and ANR shall have full party status and need not file motions to intervene.

Finally, we require that parties provide an electronic copy of all testimony, motions and responses, and briefs (e-mail submission is acceptable), in addition to hard copies. If the electronic filings are submitted in .pdf format, they must be submitted in a form that permits the Board and other parties to search the document and extract text. In addition, parties are to provide ANR with contemporaneous e-mail service of all filings, in light of the disruptions to ANR's operations that have resulted from Tropical Storm Irene. The Board will instruct its Clerk's Office similarly to provide ANR (and all other parties who provide an e-mail address) with e-mail copies of any order, memorandum, and other correspondence issued by the Board to the parties in these proceedings.

SO ORDERED.

1. If Craftsbury and Albany do not file an amended motion to intervene, any responses to their pending motion to intervene shall be due by November 4, 2011.

Dated at Montpelier, Vermont, this 19th day of October, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: October 19, 2011

ATTEST: s/Judith C. Whitney
Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)